IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1318 OF 2005
Along with
Civil Application No.1877 OF 2005

Indira Market Kamgar Seva Samiti .. Appellant.

Vs

Mira Bhayander Municipal Council
presently Mira Bhayander Municipal
Corporation and ors. .. Respondents.

Mr Jaydeep S.Deo, for the appellant.
Mr R.S.Apte, for respondent no.1.
Mr N.V.Walawalkar, sr.counsel with Mr R.D.Suryawanshi, for respondent no.2.

CORAM : D.B.BHOSALE,J.
DATE : 06/03/2007

PC:

1. Heard the learned counsel for the parties.

2. This appeal is directed against the concurrent judgments of the courts below, by which a suit filed by the plaintiffs, stands dismissed. The plaintiffs filed the present suit challenging the order dated 9.12.1987 of defendant no.1 in respect of of 42 suit structures of the members of the plaintiff-society. It appears that a notice under section 189 of the Maharashtra Municipalities Act was issued against the appellant-society seeking demolition of the suit structures being unauthorised. It reveals from the

judgments of the courts below that there is an encroachment on the Station Road, Bhayander by the members of the appellant-society. The contention of the appellant-society that the structures are situated away from the station road, has been rejected by the courts below. It also reveals from the record that the impugned notice was issued after following due procedure and both the courts below have rightly held it to be legal. Mr.Deo, learned counsel for the appellants, did not raise any substantial question of law challenging the concurrent findings of the courts below. Keeping that in view and considering the concurrent findings of facts and as I find sufficient material on record to sustain those findings and considering the extremely limited jurisdiction of this Court under section 100 of the Code of Civil Procedure to disturb the findings of fact, the second appeal fails and dismissed as such. As a consequence thereof, civil application for injunction stands rejected. However, dismissal of the suit shall not preclude the member/s of the appellant-society either jointly or individually to make an application seeking regularisation of the structure/s, as also pray for alternative site. If such a representation/s is made by the member/s of the society, jointly or individually, within a period of eight weeks from today, same may be considered in accordance with law as

expeditiously as possible and preferably within a period of eight weeks therefrom. It is needless to express that the corporation shall not take action of demolition on the basis of the impugned order for a period of sixteen weeks from today.

(D.B.BHOSALE,J.)